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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,140	04/23/2001	Nobuo Tsuchiya	35.C15319	1614
5514	7590	06/02/2005	EXAMINER	
<b>FITZPATRICK CELLA HARPER &amp; SCINTO</b> 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				SINGH, DALZID E
		ART UNIT		PAPER NUMBER
				2633

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/839,140	TSUCHIYA, NOBUO
	Examiner	Art Unit
	Dalzid Singh	2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 October 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-12 is/are allowed.
- 6) Claim(s) 13,22 and 23 is/are rejected.
- 7) Claim(s) 14-17 and 19-21 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13, 22/13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyachi et al (US Patent No. 5,920,414).

Regarding claim 13, Miyachi et al disclose optical transmission system, as shown in Fig. 4, comprising:

an opto-electric converter (22a) for converting an optical signal transmitted from a remotely opposed transmitter into an electric signal;

a reproduction circuit (22b) for reproducing a data signal from an output of said opto-electric converter;

a signal generation circuit (24) for generating a signal; and

a control circuit (23c) for detecting an abnormal state of optical signal transmission,

said control circuit casing said signal generation circuit to output the signal, when it detects the abnormal state while the data signal is outputted from said reproduction circuit (see col. 11, lines 53-64).

Miyachi et al differ from the claimed invention in that Miyachi et al do not specifically disclose a fixed signal generation circuit for generating a fixed signal.

However, since Miyachi et al disclose alarm generator, therefore it would have been obvious to indicate that the alarm generator generates a fixed signal. One of ordinary skill in the art would have been motivated to generate such fixed signal in order to alert of abnormal condition.

Regarding claim 22/13, Miyachi et al disclose optical transmission system including transmitter ( $10_1 - 10_N$ ) for transmitting optical signal and optical signal receiver (22a) being opposed to the transmitter and adapted to received optical signal .

The recitation "space transmission" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Regarding claim 23, Miyachi et al disclose signal generator (alarm generator) as discussed above and differ from the claimed invention in that Miyachi et al do not specifically disclose that the fixed signal (alarm generator) has a logic level fixed to 0 or 1. However, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the alarm generator to output a binary signal alarm such that it generate logic level fixed to 0 or 1. One of ordinary skill in the art would have been motivated to do this in order to generate a cleaner signal.

***Allowable Subject Matter***

3. Claims 1-12 are allowed.

4. The following is an examiner's statement of reasons for allowance:

Claim 1 is allowable because the invention described in patent number 6,285,481 to Ishizuka et al does not disclose or fairly suggest communication system comprising:

a fixed signal generation circuit for generating a fixed signal having a logic level fixed to 0 or 1;

a switch for selectively outputting either the data signal reproduced by reproduction circuit or the fixed signal generated by said fixed signal generation circuit; and

a control circuit for detecting an abnormal state of optical signal transmission and controlling said switch, said control circuit being adapted to output the fixed signal from said switch, when it detects the abnormal state while outputting the data signal from said switch.

Claims 22/(14-17 and 19-21) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments with respect to claim 13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalzid Singh whose telephone number is 703-306-5619. The examiner can normally be reached on Mon-Fri 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 703-305-4729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DS  
May 24, 2005

Dalzid Singh